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OBSERVATIONS

ON A GENERAL

COMMUTATION of TITHES

FOR

LAND OR A CORN-RENT.

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OBSERVATIONS
ON A GENERAL
COMMUTATION of TITHES
FOR
LAND or a CORN-RENT.

IN A
LETTER,

Thurloe (C.) / 1743 from Thurloe
ADDRESSED TO

R. THE LORD HIGH CHANCELLOR
OF GREAT BRITAIN,

AND THE RIGHT REVEREND
JOHN LORD BISHOP of ST. DAVID'S.

IN WHICH

The principal OBJECTIONS urged against
TITHES are considered,

AND

A Proof of the Inexpediency and Injustice of a
general Commutation is attempted.

L By a MASTER OF ARTS of the University
of Cambridge.

Hoc caverat mens provida. HOR.

L O N D O N :

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M.DCC.LXXXII.

ON A GENERAL
COMMUTATION OF TITHS
AND AGRICULTURAL
RATES
IN THE
COUNTY OF
SURREY
BY
THE LORD HIGH CHANCELLOR
OF GREAT BRITAIN
AND THE LORD BISHOP OF ST. DAVID'S



Printed by
J. JOHNSON, ST. PAUL'S CHURCH-YARD
1801

OBSERVATIONS, &c.

MY LORDS,

THE motion of a noble Lord * high in office, during the last Session of Parliament, for voting certain resolutions concerning a commutation of tithes for land or a corn-rent, and upon which he proposed to found a Bill for the present Session, has induced me to submit the following Arguments to the judgment of your Lordships: presuming that if they appear to be founded in reason, and urged with modesty, they may have some claim to your attention.

* The Lord President.

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The propriety of addressing this Letter to your Lordships, upon a subject of the first importance to the parochial Clergy, will be sufficiently evident from a retrospect to that noble stand your Lordships made in their defence, upon some late debates on that subject in the upper house.

But that I may trespass as little as possible on your time and attention, without farther preface, I will first consider the principal objections that are usually urged against tithes; and then enter upon the question of a general commutation of tithes for land or a corn-rent: in discussing which I shall endeavour to make it appear, that each mode of commutation would, in most cases, be both injurious and inexpedient.

The first objection which I shall consider is, the disputes which are caused by tithes between the Clergy and their Parishioners. The idea of this is so obvious and popular that it very generally serves to

create an early prejudice against tithes: however mistaken this prejudice may be, yet so confirmed is it by the respectable motive of zeal for the interests of religion, as often to suspend or elude the force of those arguments against a commutation, which, if candidly examined, might produce conviction. This prejudice has been entertained, and, I have no doubt, sincerely defended by some of the principal speakers in the House of Lords. In the debate of the 30th of March, the Bishop of P. gave it its full force by a display of that persuasive eloquence of which his Lordship is so eminent a master: But eloquence is here foreign to our purpose; it is our business to see what this objection amounts to when brought to the test of sober reasoning. It must be granted that tithes are and always will be attended with occasional difficulties (though with fewer, I conceive, than any other mode of provision); these have been much misrepresented both as to their magnitude and frequency. The clamour, raised on

account of the few incumbents who have litigated their tithes in a court of law, has been industriously propagated, while the moderation of the many, who have favoured their parishioners by an inadequate composition, has either remained unknown, or has been studiously suppressed : in short, it will appear, I trust, from the following considerations, that the causes of dispute are for the most part unreasonable and unjust. First, before an occupier enters a farm, he will, if he acts with caution, not only consider whether, after deducting the expences of a reasonable maintainance, rent, &c. a surplus will remain sufficient to defray the present charge of tithes, but he will enquire too, whether the tithes of the parish are let at their full value, otherwise the terms of his lease may be in the event disadvantageous : the present incumbent, perhaps instead of his tenth, has the moderation to demand a sum equivalent only to half the tenth of the produce ; the other half then is swallowed up by the landlord in rent ;

rent: before the lease be expired, another incumbent succeeds, who demands his full dues of one tenth; this augmentation of half a tenth, though just, is resisted by the occupier, who very unwarrantably combats the incumbent for that redress, which in justice ought to be looked for from the landlord. Secondly, this objection to tithes will always have some weight, but the more effectual force of it has been temporary: previous to the last thirty years the Clergy, whether from moderation, indolence, or ignorance of the value of their benefices, were contented with an in-adequate share of their dues; since that period, they have been more attentive and better informed, and have therefore made a considerable progress in augmenting their composition for tithes: the principal struggle then has been of late years, and is now over, and consequently the force of this argument is now upon the decline; and indeed in those parishes where the farmers have for a few years been habituated to the augmentation,
they

they are upon as friendly terms with their Clergy as heretofore. Thirdly, were nothing more intended by a commutation than to prevent disputes, surely no method could be so simple and efficacious as to compel the Clergy to take their tithes in kind: where tithes have been gathered for any length of time, the greatest harmony subsists between the incumbent and his parishioners: this would indeed create a clamour when first introduced, but the legislature would be the object of it, not the Clergy; it would not therefore be inimical to religion, and it would soon subside. Nor is the degree of this clamour to be estimated, by that which has arisen at the first collection of the tithes of particular parishes, for then the parishioners have been ever ready to make an odious comparison of their clergyman with some other, who has let his tithes for much less than their value: whereas were the clergy compelled to take their tithes in kind, the universality of the practice would

would be very effectual in silencing murmurs and discontent. But the unreasonableness of disputes that have usually arisen between the Clergy and their parishioners will sufficiently appear, not only by comparing the compositions of the Clergy with those of impropiators whose demands (though a full compensation) rarely ~~any~~ occasion ^{any} quarrels, but by considering the tithe causes that have been tried in a course of years in Westminster Hall: of seven hundred such causes it has been found that six hundred and sixty have been determined in favour of the Clergy: these circumstances serve to attest the justice and reasonableness of their demands, and will lead us to suspect that the litigations which have taken place may be fairly charged to the perverseness or avarice of the opposite party. A discreet and judicious Clergyman (and without discretion and judgment, what Pastor under any circumstances of maintenance can be of service either to his flock or to religion) will never exceed the bounds of moderation ;
 he

he will shew his parishioners how kindly he treats them by comparing his demands with the real value of the tithes, and if after this moderation any turbulent spirit should break his peace, we may fairly pronounce that such a person is deaf to the sober dictates of reason, and that the abolition of tithes would not render him either a better man, or a better christian. It is surely then unfair to contend, that tithes are in the whole injurious to the interests of religion; the truth it should seem is, that under proper management, they are favourable rather than inimical: it is well known by every clergyman, that what he delivers from the pulpit has not that efficacy on the minds of the hearers, which is experienced from friendly advice and persuasion urged to them in private, and judiciously adapted to their particular circumstances; if this be the case, every opportunity of communication should be improved; every cement of that mutual relation between pastor and flock should be strengthened; the dependence (if I may so term it) of
each

each party should be maintained; and the clergy, instead of becoming farmers (as they probably would, were a commutation of tithes for land to take place) and entering undistinguished into the discussion of crops and manures, should keep alive that confidence which their profession, when distinct and separate from worldly occupations, so naturally inspires, and points them out as the friends, the guardians and advisers of their parishioners.

Another objection urged against tithes is, that they are a great discouragement to agriculture. If the land of a farm becomes improved, the incumbent, it is true, can claim his tenth part of the additional produce, but the landlord will claim his third part*; if then the claim

* It is generally conceived that a Landlord, in order to leave a competent maintenance for his tenant should demand no more than one-third of the value of the whole produce as rent; indeed in many cases it must be less, but if greater than one-tenth it suffices for the argument.

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of the tenth part be a discouragement, much more is that of the third part ; as this is the case, there is (contrary to the intention of the advocates of this objection) more room to argue against the justice of the right of the landlord to an augmentation of rent, than that of the clergyman to the increase of his tithes ; not that I apprehend the right of either to be materially unfavourable to improvement. For if we look into the state of agriculture in general, we shall find the improvements so extensive, that we can scarcely conceive any unkindly blast to have operated with such effect as to check their efforts. In the county of Norfolk in particular the rents of the improved estates have been some of them doubled, and the tenants too have acquired ample fortunes, notwithstanding the existence of tithes, and the proportional advance of them. As to unprofitable lands, tithes cannot be very unfriendly to their improvement, as a provision is made by law

for an exemption of such lands from tithes for the first seven years *.

Tithes have been found from the experience of 1000 years a permanent provision for a large and useful body of men, the parochial clergy: a new plan of provision then ought surely to be scrutinized with the nicest precaution, and most deliberate consideration: the notice of a few months † previous to the introduction of such a proposal to the two houses of parliament, is by no means sufficient: it is a subject as complicate as it is important; and after all, though no material objections appeared on the face of a general commutation, and we were convinced that the rights of the clergy would be looked to by the legislature with a parental eye and a jealous caution; yet its wisdom, however great, is seldom able to guard against the little arts of private interest.

* 2 & 3 Edw. 6. chap. 13.

† Alluding to the Lord President's intended bill.

With respect to the first mode of commutation, that of tithes for land, besides the unforeseen evasions and inconveniences of which it may hereafter be productive, there are many already brought to light, some of which will bear very hard on the rights of the clergy, and others be detrimental to the community: some of these it shall now be my business to consider. But here I must request leave to avail myself of those arguments (amongst others) upon this first mode, that have been enforced in the debates of the last sessions in the house of peers.

First then let me ask, whether the gentlemen of the landed interest would wish that their ambition or their convenience should be circumscribed by an additional portion of unalienable land? they have often found a piece of glebe intrude upon the unity and compactness of their estates: a seventh, a sixth, and in some parishes
a fifth part of the land would by a commutation

tation fall into mortmain, and by becoming so much additional glebe would add greatly to an evil already complained of. But this is not all; they surely would not wish to see the clergy have that weight in our political machine, which so great a share of landed property would naturally give; in this I perfectly coincide with them, though perhaps our reasons are different; it would, I conceive, serve to excite the envy of some, and the malignity of others, so as to cast an odium on the profession very unfavourable to morality and religion.

Secondly, by an act * of H. 8. the clergy are restrained from farming any estate, the produce of which is more than sufficient for their own consumption: and this law was founded in wisdom; its design was to prevent their becoming too secular, and employing their minds too much in worldly affairs, so as to lessen

* 21st H. 8. c. 13.

their

their attention to spiritual duties: these reasons are equally cogent for extending the force of this law so as likewise to prevent their occupation of the allotted lands: indeed the want of property * sufficient for the purchase of the stock of the farm will often prevent their becoming occupiers: they will therefore be under the necessity of letting the land, and either a new and heavy expence must be incurred of erecting a farm-house, offices, &c. and keeping them in repair, or the land must be let as an appendage to some other farm, and will, for want of contiguity to the farm-yard (for farmers always give a greater portion of manure to the lands nearer home) be subject every year to a certain degree of impoverishment: add to this, that as the expiration of the lease (except for the first

* It would generally require a stock of the value of seven or eight hundred pounds to carry on the business of a farm of 200*l.* per ann. rent, to advantage; and so on in proportion for farms of more or less value.

twenty-one years from the commencement of the inclosure *) would be subject to the contingency of the incumbent's death, the land could neither be let to that advantage, nor would be cultivated with that spirit of improvement, which is experienced in farms under a more permanent tenure. It has sometimes happened that no one would hire the allotment: there is an instance of this in a parish in the diocese of Lincoln; and as the Living produces nothing, no duty is performed.

Thirdly, in parishes where the land consists partly of old inclosures, and is partly in a state of commonage; to inclose the latter, and exempt it from tithes by giving land, would open a door to collusion: the farmer could turn all his new inclosure into arable land, and his old inclosures that are yet subject to tithes he

* The liberty of letting the land for the first twenty-one years certain has been usually granted by an express clause of the inclosing Bill.

could

could convert to pasture, and thereby render the tithes of them of much less value than when they were in a state of tillage. This species of injury has been already felt by the parochial Clergy.

Fourthly, another very fraudulent collusion may, by an exchange of tithes for land, be easily put in practice by the principal owner; who in order to render an inclosing bill palatable to the incumbent, will tell him, that the living cannot be injured by it; so far from it, that he himself is willing to hire the allotted land of him for his life, and at a rent greater than any he ever made of his tithes: this is all very plausible; the rector thinks the exchange eligible for himself, and foresees no injury to his successors. The owner (especially if he be the proprietor of all the land in the parish) can, even during the life of the incumbent, suffer little or no loss, let the allotment be ever so small: at his decease, the owner chuses to resign the occupation of the land,
well-

well-knowing that it never was worth perhaps half the rent he gave. The new rector then finds the living reduced by the commutation to less than one half of its former value, and the proprietor of the land has the full advantage of the reduction. But this is not all, for the question in an inclosing bill is not, whether the clergyman derive equal or more advantage from the commutation than he formerly enjoyed from tithes, but, whether the allotment be adequate to the probable value of the tithes when improved by the inclosure. For the interest in tithes is eventual. If then, by any change of circumstances, there arises an augmentation of the produce, such an augmentation is the joint property of the incumbent and the owners*, and that in the proportion of one to nine. It has been said indeed, that the probable im-

* It is here unnecessary to mention the occupiers, for the force of the argument is precisely the same as it would be if all the occupiers were owners.

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provement,

provement, of the tithes by an inclosure, ought not to be considered in the estimate of the quantity of land to be given in exchange. Upon what foundation this assertion is grounded, I cannot comprehend. In all other sales whatever, whether of land, of tithes impropriate, of stock in the public funds, &c. the probable improvement is always considered in the estimate of their value. That the clergy then, in a commutation, (which is in fact a sale of the tithes for an allotment of land) should be the only persons debarred this advantage, would be to single them out as objects of persecution. But at the same time I have often thought, that at the introduction of any uncommon and permanent improvement to the produce, (such as generally arises from inclosing) for the living to bear a proportional part of the expence would be but reasonable and equitable. And this indeed may be done (in effect), in the case of a commutation, by an abatement in the valuation of the probable improvement of the tithes.

Fifthly, by the negligence of the incumbent, or the fraud of the occupier, the allotted land, &c. may be injuriously treated; insomuch that the succeeding incumbent may find it impoverished or exhausted, the fences broken down, and the buildings dilapidated. Is he to be left then, without any compensation or redress, to bewail an exchange so ill-judged and destructive? It may be said indeed that the remedy is obvious; that the impoverishment of the land, the ruin of the fences, &c. may be compensated by virtue of an act of parliament, which might be made to empower the successor to have the damages estimated, and charged to the effects of the predecessor, as is now done in the dilapidations of parsonage houses. But, not to mention the many errors and difficulties, to which such an estimate (particularly in the land) would be subject, where would be the redress in the case of insolvency? I know an instance of a rector who lately died insolvent. A large parsonage house and its offices were, together with the glebe, left in a ruinous state. The suc-

cessor could have no compensation for the dilapidations: and were not the tithes very valuable, he would never have been able to have made his house comfortable, so as to have resided upon his preferment. If such was the grievance, tho' the parish was subject to tithes, what would it have been if an exchange for land had taken place? The farm house and offices dilapidated, the fences broken, the allotted land exhausted, would have been a melancholy hardship upon the present rector, and such an injury to the living, as could never been retrieved without much expence, and a long perseverance in good management. Nor would this have been the whole of the evil, for, from so great a diminution of the profits, the rector would never have been able to have rendered his parsonage house fit for residence, and the parishioners would have therefore been deprived of many of those kind offices, which naturally tend to conciliate affection, and promote religion.

Sixthly, it is a well-known fact, that in some parishes the site of the glebe lands can-

cannot now be ascertained : in others the quantity has been diminished : in others the whole has been lost. We may account for the first of these circumstances, by supposing the glebe let as an appendage to some farm, where the owner has not been very nice in preserving the marks of separation : but were any one to enquire in what hands the lost glebe is now held, I think I cannot refer him better for information, than to those patrons or owners who have other property in these parishes. If this be now an evil of some magnitude, how great might it become, if, by a commutation, a much larger portion of land should be converted into glebe ?

Seventhly, experience is a potent argument, and has been appealed to, as fairly conclusive in determining this question. It has been contended, that above eight hundred inclosing bills have passed; and in the greater part an exchange of tithes for land has been adopted, and no complaints have been heard. In reply to this, it may be observed ; first, that the argument loses
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all its weight unless the experience be of sufficient duration; which, I apprehend, cannot here be allowed. For inclosing bills, where lands have been given in lieu of tithes, are of a late date; they are nearly all within the limits of thirty years. The experience then of the effects of a commutation has hitherto been chiefly confined to the first incumbents; and the disadvantages are (as we have seen) for the most part remote. No opinion then can be formed on this subject from the present extent of our experience; at least, no such opinion can be considered as decisive. But secondly, 'tis granting too much to allow, that no complaints, or rather no causes of complaint, are yet existing. I make this distinction, because some there are who already find inconvenience, and regret their concurrence in the exchange, but will not subject themselves to the humiliation of divulging their indiscretion by complaint. Others there are who openly complain, and frankly acknowledge themselves, or possibly

possibly their predecessors, to have mistaken in their compliance the true interest of the benefice. But as these incumbents are thinly scattered over the kingdom, their complaints will seldom fall under the notice of individuals.

I will now consider the second kind of commutation, namely, for a corn-rent. This mode of commuting, though less exceptionable than the other, is nevertheless liable to very weighty objections.

That the expediency of establishing a corn-rent in lieu of tithes is by no means such as it was in the case of collegiate estates will best appear from the following history of it. The first introduction of corn-rents (as established by law) was in the 18th of Queen Elizabeth. The collegiate bodies had been for some time hastening to ruin by anticipating their revenues. It was their practice to grant leases for a long term of years at the old pecuniary rent, and in lieu of any advance, they at
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the renewal of the lease took a fine *. In order to prevent a mode of proceeding so injurious to their successors, various† acts of parliament were passed, limiting the term of years, and enforcing divers regulations; these by the ingenuity of evasion were constantly eluded. At length the evil became so great, that a remedy, however precarious, became highly expedient. When Sir Thomas Smith, one of the ministers of the above reign, in order to save some part at least of the collegiate revenues for the use of posterity, projected a bill; enacting that all collegiate estates should pay one third of their rent in corn, (namely in wheat or malt) or its value in money; so that, if it were settled in wheat, and the third part of the rent of any estate was then six pounds (the price of wheat being fixed in the act at six shillings and eight-pence per quarter) a perpetual corn-rent of eighteen quarters per ann. is now chargeable upon such an

* A sum of money advanced as a premium for granting a term of years in a lease is called a fine.

† 32 Hen. VIII. c. 28. 13 Eliz. c. 10.

estate. As the colleges do not want the corn, the practice now is to pay the value in money half-yearly, according to the best price of corn (the next market-day before the said rent shall be due) in Cambridge or Oxford, &c. Though any remedy, where there is the least prospect of success, may be applied with propriety to check the progress of a ruinous consumption of revenue; yet the case is very different where the revenue is already nearly permanent, (or perhaps increasing) and has been so for ages, which is experienced in tithes.

Not to repeat those arguments which have been urged against commuting tithes for land, some of which will equally apply to this second mode of commutation; I will proceed to others.

First then, the advocates for this mode will contend, that it is adequate and just; for that a given portion of corn, even at distant periods of time, is permanent in

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its real value †; or at least it will keep pace, say they, with the value of tithes. With respect to the first assertion, I will appeal to the very learned author of the treatise on the nature and causes of the wealth of nations, who asserts: “ that labour, and not
 “ any particular commodity, or set of
 “ commodities, is the real measure of
 “ the value both of silver, and of all other
 “ commodities *.”

And again he says: “ equal quantities
 “ of labour will at distant times be pur-
 “ chased more nearly with equal quanti-
 “ ties of corn, the subsistence of the la-
 “ bourer, than with equal quantities of
 “ gold and silver, or perhaps of any other

† The enquiry in the course of the first part of this argument is, whether corn be, at distant periods of time, “ permanent in its real value:” *i. e.* whether an equal quantity of corn will, at distant periods, enable its possessor to purchase or command the same quantity of the labour of other people, or the same quantity of the necessaries and conveniences of life. See the second quotation from Smith’s *Wealth of Nations*, in this and the following page.

* Smith’s *Wealth of Nations*, B. I. C. II. part 2,
 “ com-

“ commodity. Equal quantities of corn
 “ will therefore at distant periods be
 “ more nearly of the same real value, or
 “ enable the possessor to purchase or com-
 “ mand more nearly the same quantity
 “ of the labour of other people; they
 “ will do this I say more nearly than
 “ equal quantities of almost any other
 “ commodity; for even equal quantities
 “ of corn will not do it exactly *.” It
 is allowed then by this author, that corn is
 not permanent in its real value, (though
 more nearly so perhaps than any other
 commodity); and even the assertion of its
 being nearly so, is founded upon the sup-
 position of the same species of corn conti-
 nuing to be the staple production for the
 food of the labourer; the precariousness
 of which I shall have occasion to consider
 in another place. But, with deference to
 this learned author, I conceive, he might
 have given this assertion (“for even equal,
 &c.”) a greater latitude: for the following
 circumstance alone will serve to suggest the
 idea, that corn has, at distant periods, by

* Wealth of Nations, B. I. C. 5.

no means preserved the same real value. By the act above-mentioned, the corn-rent might have been either fixt in malt at five shillings, or wheat at six shillings and eight-pence the quarter; these being the average prices at the time of passing the act. But from the average price of malt and wheat for the last seven years*, it appears, that a corn-rent, settled in malt for a given sum in the 18th of Elizabeth, is at the present time twenty-two per cent. less valuable, than it would have been if settled in wheat. This is a convincing proof, not only that these corn-rents, in malt and wheat, have not preserved the same relative values, but that one of them, at least, has not nearly preserved the same real value; and is therefore a strong presumptive proof that neither of them has. As to the second assertion, that corn and tithes keep pace in their value; this is not true, as applied to the present question. The corn-rent will be permanent

* This average in Cambridge market is for wheat 5s. 7d. and for malt 3s. 4d. per bushel.

in its quantity, while the corn arising from tithes will not: for the produce of corn in this kingdom, by reason of improvements in cultivation, and by inclosing wastes and commons, is continually increasing. An annual payment then of a given quantity of corn in lieu of tithes, that is now equivalent in value, will not be so in future; it will operate like a pecuniary modus, which, tho' at first perhaps an equivalent, is now, by reason of a greater produce (if I may so term it) of money, dwindled to almost nothing.

Secondly, a corn-rent in wheat may hereafter suffer a severe check in its value, by the general introduction of some other vegetable more palatable, more nourishing, and less expensive. A spirit, and a laudable spirit of improvement in agriculture prevails: Experiments were made a few years since of a barley said to come from Siberia, which was thought to have the joint properties of British wheat and barley. It was very luxuriant in its
pro-

produce, and had it proved in the least superior to British wheat, it would soon have supplanted it; and the staff of life would now have been composed of Siberian barley. Again, the use of potatoes may become as general here, as it is in Ireland. Nothing but fashion, or some more palatable mode of preparation, is wanting to introduce them as the general constituent of common food. Their nourishing quality, and suitableness to the health of the human constitution, is well attested by the robustness of the Irish porters and chairmen. They are less expensive too than wheat, for it has been found by experiments, that an acre of land will produce six times the weight of potatoes that it will of wheat, and that too with less cultivation. Allowing then half the weight of potatoes to go off in water, their quantities of substantial food will be as three to one. It is obvious then that if tithes were commuted for a corn-rent of wheat, the revenues of the clergy might receive essential and irreparable injury. And the argument will equally apply to
any other

other species of grain that might be assumed as a standard for a corn-rent. And moreover, as the loss the clergy would suffer would be so much gain to the proprietors of the land, their interest, in establishing a substitute for wheat, would induce them to second every natural effort towards introducing it.

Thirdly, if a corn-rent be adopted for the clergyman in lieu of tithes, this rent must be either paid in kind (in wheat suppose) or in money according to the current price of the grain. If in kind, what security can he have of its possessing a competent degree of goodness? and would not so much of the wheat get into the hands of the clergy, as to produce a monopoly? If in money, let us first suppose the mode of estimation that prevails in colleges to be adopted in the present instance, namely, according to the best price of corn on two stated market days of the county town: this, as it would expose the clergy to the temptation of using means to raise the market price on those days,

days, is pregnant with evil, and the more so as the very possibility of its being practised would subject them to a very great share of unmerited scandal. Secondly, were the estimate made according to the average price of those days, this would open a wider field to collusion; the farmers would be interested in selling some corn on those days at an inferior price, in order to lessen the average. And though in general this numerous body of men are honest and respectable, yet there will always be found individuals, sufficient to put this collusion effectually in practice.

Fourthly, difficulties may often arise from the division of a farm into parts. A farm, suppose, that pays twenty quarters of wheat in lieu of tithes, is afterwards divided so as to be let to different occupiers. It is plain then that these occupiers are jointly to supply the twenty quarters. A struggle will now arise relative to the portion that each is to pay. It may be said indeed, that this could be settled by

by commissioners, and the clergyman could not suffer: be it so; but surely it would be productive of a species of trouble and expence that is unknown in tithes; whereas, in most matters, the principal intention of adopting an innovation is, to unravel perplexity, and reduce the intercourse of business to its most simple form.

Fifthly, a corn-rent may sometimes bear very hard upon the farmer: as in the following instance: Suppose a hail-storm or a blight to destroy his crops, he would nevertheless be bound to pay his corn-rent; and the clergyman, instead of bearing his share of the misfortune, as he would in tithes when taken in kind, could demand his full allotment of corn; nay the very calamity would very preposterously turn to his profit, for by creating a scarcity, it would increase the price of corn, and thereby augment the value of his corn-rent. So true is that, which an old historian said of the colleges

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leges, “ when there is the least corn they have the most bread *.”

Sixthly, the hazard and inconvenience to the clergy in collecting their dues would be increased by a corn-rent. They would be under a very peculiar hardship as creditors; that prudent precaution that in other contracts is exercised in accepting only men of property as debtors would be here superseded: it may exist, but it cannot operate; the occupiers (who would all by this plan become the Clergyman's debtors) are chosen, not by the clergy, but by the landlords: Add to this, that the farmer relying upon the clergyman's forbearance would be tardy in his payments, and therefore where there is any tendency to insolvency, the clergyman would be the most liable to suffer; in such cases he must sometimes forego his dues, or be driven to the hard and disagreeable necessity of seizing the effects, and distressing perhaps a large and helpless family. Nor would the evil stop here, for he

* Fuller in his history of the University of Cambridge. would

would necessarily by such a proceeding incur an odium upon his professional character, very unfriendly to the interests of religion. But in tithes when taken in kind no such unpleasant circumstance can arise: the clergyman cannot suffer by debts or insolvency, he has only to look to the produce for his payment; and as the interest in it is mixt, and much greater to the farmer than to the clergyman, there is ample security for the crops being the best that circumstances will allow. Add to this, that the value of the tithes scarcely exists till they are due, so that there is not time sufficient for fraud or collusion to operate. And even where tithes are compounded for, if the rector finds he cannot get his composition, in certain instances, but with difficulty and loss; he has then so far his redress, that he can avoid any farther loss, by taking his tithes in kind from such farms in future.

I have now stated the principal arguments, that I have to offer against a general commutation of tithes, either for land, or corn,

It is indeed possible that very particular cases may arise, where, even after duly weighing every probable difficulty, a commutation may be thought expedient; such I conceive are the following: Suppose the interest in the tithes of a parish to be divided between a rector or impropriator, and a vicar; since the original endowment of the vicarage often depended on the then local circumstances of the parish, so as to bear a certain proportion to the rectorial tithes; when these circumstances are altered by inclosing, it will be but equitable to preserve this original proportion; to effect which, a commutation may be sometimes eligible. Thus if the land intended for inclosure is a common which now feeds sheep and cows, it may, when inclosed, come in general under the plow, so as to change the tithes from vicarial to rectorial. And again if it consists of open fields only, which are now wholly in tillage; part of the great tithes may be changed into small by converting some of these fields when inclosed into pasture. And indeed

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the tithes in a parish of the latter description, even where the whole is vested in the same person, might be so diminished by the inclosure, as to render the expediency of commuting a question worth considering. But these cases are rare, and when they chance to arise, they may be brought before the legislature as heretofore, in an express clause of the inclosing bill in question.

But it is to be lamented that inclosing bills (at least as far as they relate to the clergy) have not been attended to with that cautious accuracy, which the sacred rights of private property so justly demand. It is well known that the usual practice of the clergyman's appointing one of the three commissioners, that are to ascertain the value of the tithes, when an inclosure takes place, is rendering the combat in fixing that value very unequal; and the more so as the commissioners (at least two of them) are generally occupiers, perhaps owners, and therefore are virtually interested. At best the composition,

position, that then exists in the parish, or the adjacent parishes, is often the rule of the valuation ; which composition is, in some cases, perhaps not half the real value. This is a plan of proceeding that militates against the spirit of our laws : and in no other instance whatever is private property subject to the judgment and disposal of so unconstitutional a tribunal ; and, as if the commissioners enjoyed the peculiar privilege of infallibility, the decisions are not controulable by a right of appeal to any court whatever, in case either party should be aggrieved.

It has been said indeed, that the parochial clergy are amply provided for : How far this assertion may be considered as the result of envy or avarice will make no part of the present enquiry ; but when taken in a more liberal sense it seems to insinuate that their provision is greater than is consistent with the good of the state ; this doctrine will not be so prevalent, when it is considered, that it will take the time of three centuries to give the livings under

der fifty pounds per annum their compleat augmentation by virtue of the bounty established by Queen Anne. And if we take an estimate even of the largest benefices, we shall find very few of such value, as to be eminently subservient to the purposes either of avarice or ambition. And even if they were, the right of the clergy to tithes, being founded upon the solid basis of the law of the land, is as firmly established as any right that now exists; even the claim of any owners to landed property cannot be more clearly ascertained than this; and the legislature could alienate or curtail it by commutations or otherwise with as little breach of the constitution.

It is the natural temper of an Englishman to look with a jealous hatred upon every thing that is compulsive. In order therefore to render a general commutation-bill more palatable, it has been said that the friends of it never intended it should compel, but that it should enable only: This I conceive is a distinction without

out any effectual difference ; if it be made to enable only, it will operate more slowly, but its effects will be equally certain. Many of the disadvantages of a commutation are (as I have before observed) remote : it is not the first incumbent that can experience them ; the exchange is to him often specious and inviting, and as far as relates to himself his reasons for compliance may be sometimes admitted. But when he is considered as the representative of his successors, as the guardian and trustee of their rights and privileges, he is bound by every principle of honour and integrity to have a regard to their interests. He ought to be aware, that what is voluntary in him, is compulsive to them : they are bound by his act ; and though they are the principal sufferers, their voices cannot be heard, how general soever their negative of the commuting clause might be.

Had not the noble Lords, in favour of a commutation, expressed, in the course of the late debates, a warm attachment to
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the interests and well-being of the parochial clergy, they might have some reason to apprehend from the mode of proceeding which has been lately adopted in bills of inclosure, that the noble Lords had abated their usual favour and patronage. In the debate of the 15th of June on the bill for inclosing the parish of Kington in the county of Worcester, (where the right of tithes was to be extinguished, and a corn-rent be given in lieu of it, to the rector) it was moved to have the bill recommitted, in order that such amendments might be made, as were deemed highly necessary for the purpose of securing the living against loss; the result however was, that the motion was rejected by a great majority*. As the legislature

* That the amendments may speak for themselves, I will here insert them, as they were reported in the public prints

It was proposed first to require the commissioners to investigate the value of the tithes of the several farms and lands of the parish of Kington, for ten years last past, and from thence to compute the annual

legislature most certainly always wishes to do justice, and as the amendments proposed appear very reasonable, the rejection of them therefore becomes a paradox in legislation, the solution of which I will not presume to undertake.

Pardon

nual averages and value of the tithes during that period.

Secondly, to authorize the commissioners to ascertain the probable improved value of the tithes after the inclosure shall have taken place; and this improved value, when added to the annual average value for ten years back, was to be deemed the true annual value of the tithes for the time to come.

Thirdly, that the commissioners might be the better enabled to make these enquiries, they were to be empowered to examine witnesses upon oath, and to summon for this purpose those proprietors and occupiers that were capable of giving any information. It was intended also, that the commissioners should take and subscribe oaths purporting that they had, to the best of their skill and judgment, inquired into the true value of the tithes of each farm, &c.

Fourthly, the neat value of the tithes being thus ascertained; the commissioners were next to inquire into the average price of wheat for the last seven years

Pardon me, my Lords, for trespassing so long upon your time and patience. What is here offered I submit with all deference to the wisdom of your Lordships, who have shewn so clear a comprehension of the rights and privileges of the parochial clergy, and have manifested so laudable a spirit in their support. I have only to add, that it is to be wished the whole matter were fairly canvassed, and the arguments on each side clearly enforced, and made public, so that we might coolly and deliberately form an opinion that is ingenuous, decisive, and easily imparted to others.

in the county of Worcester, and to fix what quantity of wheat was equal in value to the real annual average of the tithes of each farm.

Fifthly, the several depositions, oaths and valuations were to be enrolled in the court of Quarter Sessions, and in the Bishop of Worcester's consistory court, and immediately after such enrolment the right of tithes was to cease: and then followed a proviso by which the rector was permitted to apply by petition to any of his majesty's courts in Westminster-hall, in order to set right any fraud or oversight which may have been committed by the commissioners in their valuations of the tithes, &c.

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Should this letter contribute to produce this effect, the object of it will be answered, and it will give the writer pleasure; but he would be better satisfied might he indulge a wish, that, in some interval of public business, one of your Lordships would deign to employ his able pen upon this complicate subject; the argument would then appear in that force and extent that is striking and persuasive: this would add to the many obligations already conferred upon the parocial clergy, and would, I trust, be gratefully and respectfully received by the whole order, and by no one more so than by your Lordship's

most respectful and

most obedient



humble servant, &c,

